IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 718(S/S)2007

Dhan Singh S/o Karan Singh,
Driver of Tanakpur Depot,
R/o Station Road, Tanakpur,
District Champawat. ---- Petitioner.

Vs.

1. The State of Uttarakhand State Road Transport Corporation
   Through it's Regional Manager Tanakpur,
   District Champawat,
2. The Assistant Regional Manager,
   State Road Transport Corporation, Tanakpur,
   District Champawat,
3. The Senior Station Officer, Uttarakhand Road
   Transport Corporation, Tanakpur,
   District Champawat. ----Respondents.

Sri Suresh Ch. Bhatt, learned Counsel for the petitioner and
Sri Ashish Joshi, learned State Counsel for respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Suresh Ch. Bhatt, learned Counsel for the petitioner and Sri Ashish Joshi, learned counsel for the respondents.

By means of this writ petition, the petitioner has challenged the order dated 20th June 2007 passed by the Sahayak Maha Prabandhak, Uttarakhand Transport Corporation, Tanakpur. By the aforesaid order the Sahayak Maha Prabandhak has placed the petitioner, who was working as Driver in Uttarakhand Transport Corporation, Tanakpur Depot, under suspension for certain charges.

The petitioner has assailed the impugned order on various grounds. The main ground of assailing the impugned order firstly, is that the order of suspension has been passed by the Assistant Regional Manager, who is not the Appointing Authority of petitioner. But the argument advanced by the learned counsel for the petitioner has no force. Firstly, as the order impugned has been passed by Sahayak Maha Prabandhak and not by the Assistant Regional Manager. Secondly, learned counsel for the respondents has submitted that the Appointing Authority of the petitioner is the Assistant Regional Manager and the post of Sahayak Maha Prabandhak is equivalent to the post of Assistant Regional Manager under restructure of the Department. I do not find any force in the arguments advanced by the learned counsel for the petitioner that the suspension order has been passed by the person who is not the Appointing Authority.

The second ground of assailing the suspension order advanced by the learned counsel for the petitioner is that the allegation by which the petitioner was found involved in futile exercise of theft of diesel from a tank in the store of Corporation (निगम स्टोर टैंक से डीजल चोरी करने का असफल प्रयास) is totally false and baseless and even if it is true, the delinquent was merely trying futile theft, therefore his act is not, at all, covered under the definition of theft. I do not agree with the submission of the learned counsel for the petitioner. It is the job of the Inquiry Officer to find out as to whether the allegation levelled against the petitioner is correct or not. This Court cannot enter into this controversial question at this stage.

Counsel for the petitioner has further submitted that it is nowhere stated in the suspension order that from which Tank,

at which place and at which point of time, the petitioner was trying to take away the diesel from the store of the Corporation. No doubt, the suspension order is not required to be passed in detail. All the facts will come in the charge sheet itself after it comes in the statements of the witnesses. This argument is also baseless.

In the circumstances, I decline to interfere with the impugned suspension order. However, considering the facts of the case as narrated in the writ petition, I find it fit and proper to direct the respondents to conclude the Inquiry initiated against the petitioner and pass final order within a period of three months from the date of production of a certified copy of this order. The petitioner is also directed to cooperate with the Inquiry.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

June 27, 2007:
NCM: